(30)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

SECOND APPEAL NO. 273/2007

APPELLANTS (DEFENDANTS)	:	1.	Takeshwar Ram S/o Ram Garib, Aged about 59 years, Occupation-Agriculture.
		2.	Dhan Sai S/o Lalman, Aged about 49 years, Occupation-Agriculture.
		3.	Sant Kumar S/o Ram Autar, Aged about 29 years No. 1 and 3 – residents of Village-Tengani and No. 2 Resident of Village-Girjapur, all three of Tahsil – Baikunthpur, District – Korea (C.G.)
	Versus		
RESPONDENTS (PLAINTIFF)		1.	Heera Ram S/o Indraman Ram, Aged about–61 years, Occupation-Agriculture, Resident of Village-Girjapur, Tahsil-Baikunthpur, Distt.-Korea (C.G.)
(DEFENDANT NO. 4)		2.	State of Chhattisgarh, Through: Collector, Korea, H.Q. – Baikunthpur, Distt. Korea (C.G.)

Second Appeal Under Section 100 of the Code of Civil Procedure, 1908.

Present:-
Shri Mahendra Dubey, counsel for the appellants.
Shri Akhil Agrawal, Panel Lawyer for the State/respondent No. 2

ORAL ORDER
(Passed on 26-07-2007)

Heard.

2. The appellants are aggrieved by the judgment and decree dated 4.5.2007 in Civil Appeal No. 36-A/2006 by the District Judge, Korea, (Baikunthpur), Chhattisgarh whereby affirming the judgment and decree passed by Civil Judge, Class-I, Baikunthpur in Civil Suit No. 20-A/1997, the appeal was dismissed.

3. Learned counsel for the appellants did not dispute the fact that appellant No. 1 and 3 did not enter the witness box in the Trial Court.

4. Both the Courts below on appreciation of evidence have recorded a finding of fact that Heera Ram – respondent/plaintiff herein was the brother of the deceased Tilak Ram who died issueless and therefore, succeed to the suit property. On this basis, both the Courts below held that mutation of the name of respondent/plaintiff over the suit land by the Revenue Authorities was proper and that the sale deed of the suit land executed by Takeshwar Ram– appellant/defendant No.1 in favour of Dhan Sai and Santkumar– appellants/defendants No.2 and 3 was void. Learned counsel for the appellants was unable to show that the finding recorded by both the Courts below was perverse.

5. Since the pure finding of fact recorded by both the Courts below is based on appreciation of evidence, no substantial question of law arises in this appeal, which is dismissed at the stage of admission.

6. Consequently, I.A. No. 1, under Order 41 Rule 5 of the C.P.C. also stands dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Kvr